
Public Notice

Applicant:

Date:

Benderson Development
Company, Incorporated

Published: February 20,
2002

**U.S. Army Corps
of Engineers**

Expires: March 22, 2002

In Reply Refer To:

Buffalo District CELRB-CO-R RE: 1999-00482(2) **Section:** NY 404

Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).

Benderson Development Company, Incorporated, 570 Delaware Avenue, Buffalo, New York 14202, has applied for a Department of the Army permit to impact an unnamed tributary to Irondequoit Creek and its associated wetland for the construction of a retail plaza. The project is located at the intersection of New York State Route 96, Interstate 490 and Interstate 90 in the Town of Victor, Ontario County, New York.

Phase I of the project will consist of the construction of four retail buildings including a Wal-Mart Supercenter, two restaurants and associated parking. This phase of the project will impact approximately 1,520 feet of intermittent stream channel and 1.19 acres of associated wetland. The stream and associated wetland are a part of a tributary system of Lake Ontario and therefore considered to be regulated waters of the United States. Drainage will continue to flow through the site via the installation of a 42-inch storm pipe. A stormwater/catch basin will be constructed at the eastern end of the proposed storm pipe. (See Sheet 4 of 6)

A large portion of the site has been previously disturbed by mining/excavation activities. The wetland drainageway is composed of dominant plant species which include: skunk cabbage (*Symplocarpus foetidus*), field horsetail (*Equisetum arvense*), crack willow (*Salix fragilis*), aster (*Aster* sp.), touch-me-not (*Impatiens* sp.), narrow-leaved goldenrod (*Euthamia graminifolia*), gray-stemmed, red osier and silky dogwoods (*Cornus* sp.), yellow water buttercup (*Ranunculus flabellaris*), soft rush (*Juncus effusus*), spotted Joe-pye weed (*Eupatorium maculatum*), quaking aspen (*Populus tremula*), shallow sedge (*Carex lurida*), fowl manna grass (*Glyceria striata*), and American elm (*Ulmus americana*) saplings. The wetland boundary was confirmed on December 29, 1998 and will remain valid until September 7, 2004.

Phase II of the project will consist of the construction of five office buildings, a hotel, a restaurant, an outparcel and associated parking. Phase II will not impact any waters of the United States.

The applicant proposes to mitigate for the impacts to waters of the United States through the donation of monies to The Nature Conservancy (TNC). The monies will help fund the acquisition of a

20 acre tract of farmland and the restoration of approximately one acre of wetland that is part of the New York State Department of Environmental Conservation Class I regulated wetland PN-2. The parcel is located adjacent to the Thousand Acre Swamp in the Town of Penfield, Monroe County. TNC acquired the tract in November 2000 for \$223,828. TNC has indicated they would except no less than \$25,000 from the applicant for mitigation associated with the proposed project. To date, the applicant has not provided the details regarding the amount of funds they propose to donate to TNC.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Bridget E. Brown, who can be contacted by calling (315) 255-8090, or by e-mail at: bridget.brown@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, and should be marked to the attention of Bridget E. Brown, or by e-mail at: bridget.brown@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

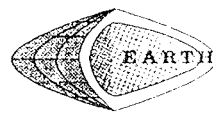
The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general

environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.



EARTH DIMENSIONS, INC.
Soil Investigations and Wetland Delineations

W2F97a

Victor Commercial Development Site

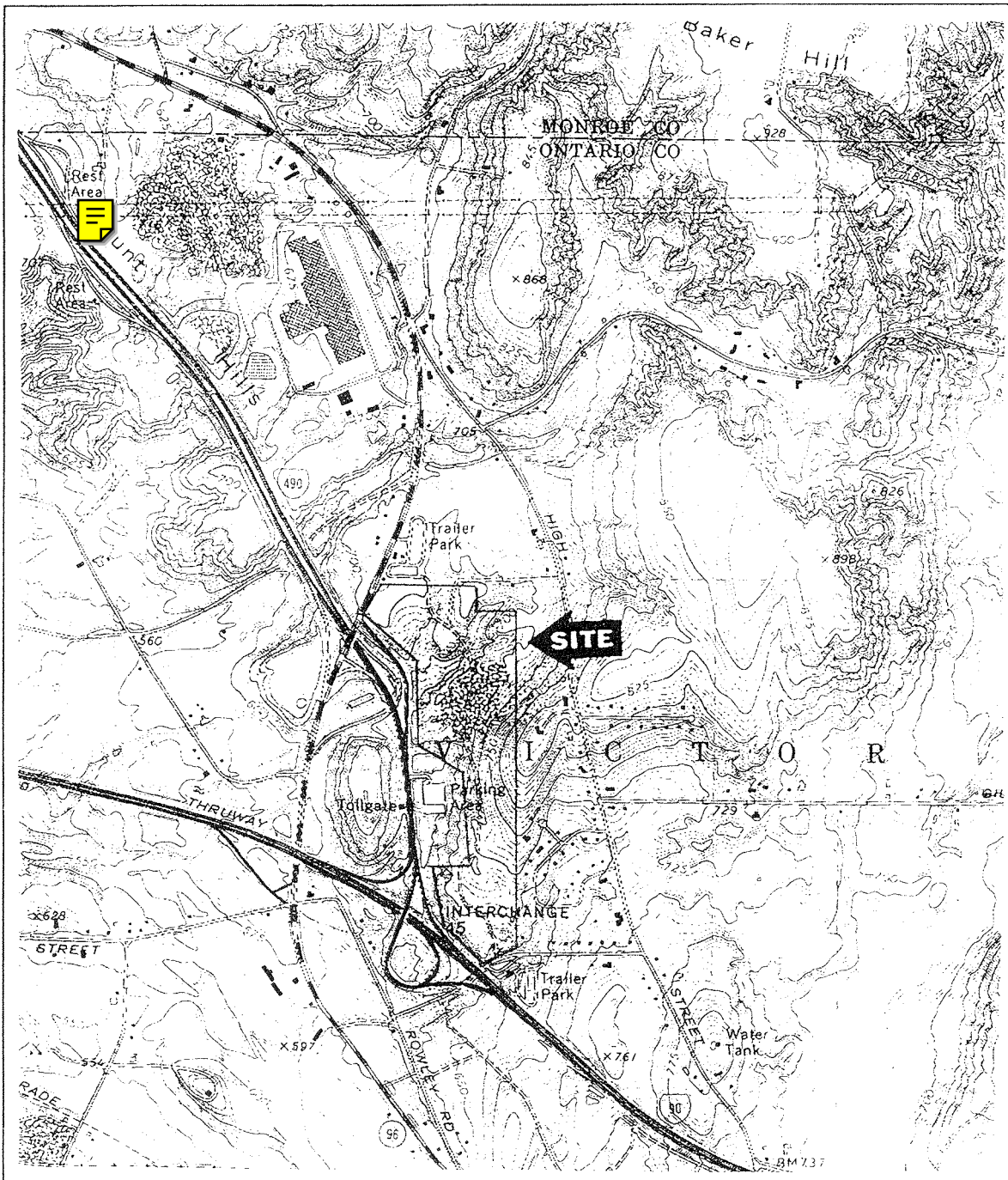


Figure 1 USGS 7.5 Minute
Topographical Map
Fairport Quadrangle/1978

Victor Commercial Development Site
Town of Victor
Ontario County, New York

BENDERSON DEVELOPMENT COMPANY,
INCORPORATION
D/A Processing No. 1999-00482(2)
Ontario County, New York Quad: FAIRPORT
Sheet 1 of 6




Phase I
Phase II

LEGEND

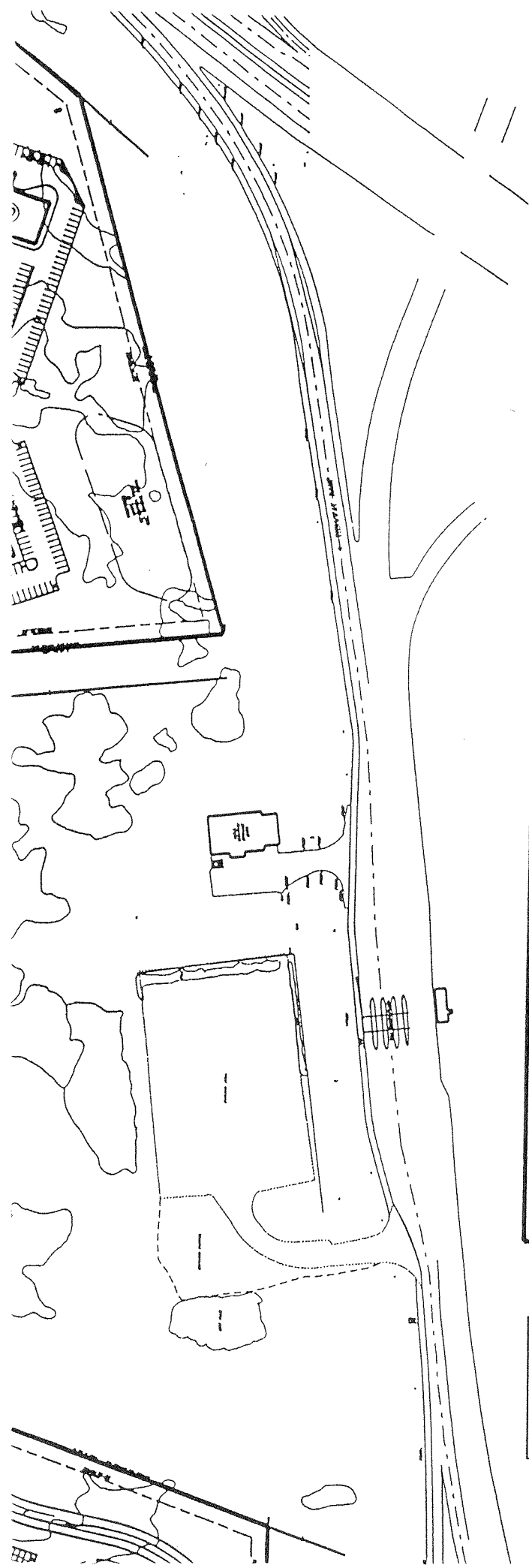
- EXISTING VEGETATION
- LIMITS OF WETLAND
- EXISTING DIRT PATH

(1.19ac)

UNAUTHORIZED ALTERATION OR ADDITION TO THIS
DRAWING IS A VIOLATION OF NEW YORK STATE
EDUCATION LAW ARTICLE 145, SECTION 1203

245 SUMMIT POINT DRIVE SUITE 4 HENRIETTA, NEW YORK 14456 (716) 359-0280	
	
ENGINEERING, P.C.	
DRAWING:	OVERALL PLAN
PROJECT:	VICTOR COMMERCE PARK VICTOR, NY
SCALE:	MTS
FIGURE #:	FIG. - 01
PAGE #:	

BENDERSON DEVELOPMENT COMPANY,
INCORPORATION
D/A Processing No. 1999-00482(2)
Ontario County, New York Quad: FAIRPORT
Sheet 2 of 6



BUILDING AND PARKING DATA						
BUILDING	SQUARE FOOTAGE	USE	PARKING REQUIRED		PARKING PROVIDED	
			RATIO	TOTAL	RATIO	TOTAL
1	204,167	RETAIL	4.5/1000 SF	919	4.5/1000 SF	919
2	85,980	RETAIL	4.5/1000 SF	387	4.5/1000 SF	387
3	18,040	RETAIL	4.5/1000 SF	82	5.3/1000 SF	91
4	60,600	RETAIL	4.5/1000 SF	273	4.5/1000 SF	273
5	11,700	RESTAURANT	5.0/1000 SF	59	7.3/1000 SF	85
6	11,200	RESTAURANT	5.0/1000 SF	56	7.6/1000 SF	85
SUBTOTAL	391,687	-	4.5/1000 SF	1,776	4.7/1000 SF	1,840
7	10,000	OUTPARCEL	5.0/1000 SF	50	5.0/1000 SF	50
8	28,800	OFFICE	5.0/1000 SF	144	5.0/1000 SF	144
9	17,400	OFFICE	5.0/1000 SF	87	5.0/1000 SF	87
10	43,285	OFFICE	5.0/1000 SF	217	5.0/1000 SF	217
11	22,800	OFFICE	5.0/1000 SF	114	5.1/1000 SF	122
12	22,800	OFFICE	5.0/1000 SF	114	5.8/1000 SF	116
13	20,300	HOTEL	5.0/1000 SF	102	9.0/1000 SF	118
14	9,000	RESTAURANT	5.0/1000 SF	45	5.4/1000 SF	81
SUBTOTAL	174,385	-	-	873	-	935
TOTAL	566,072	-	4.7/1000 SF	2,649	4.9/1000 SF	2,775

BENDERSON DEVELOPMENT COMPANY,
INCORPORATION
D/A Processing No. 1999-00482(2)
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Sheet 3 of 6



ENGINEERING, P

DRAWING:

OVERALL SITE F

PROJECT:

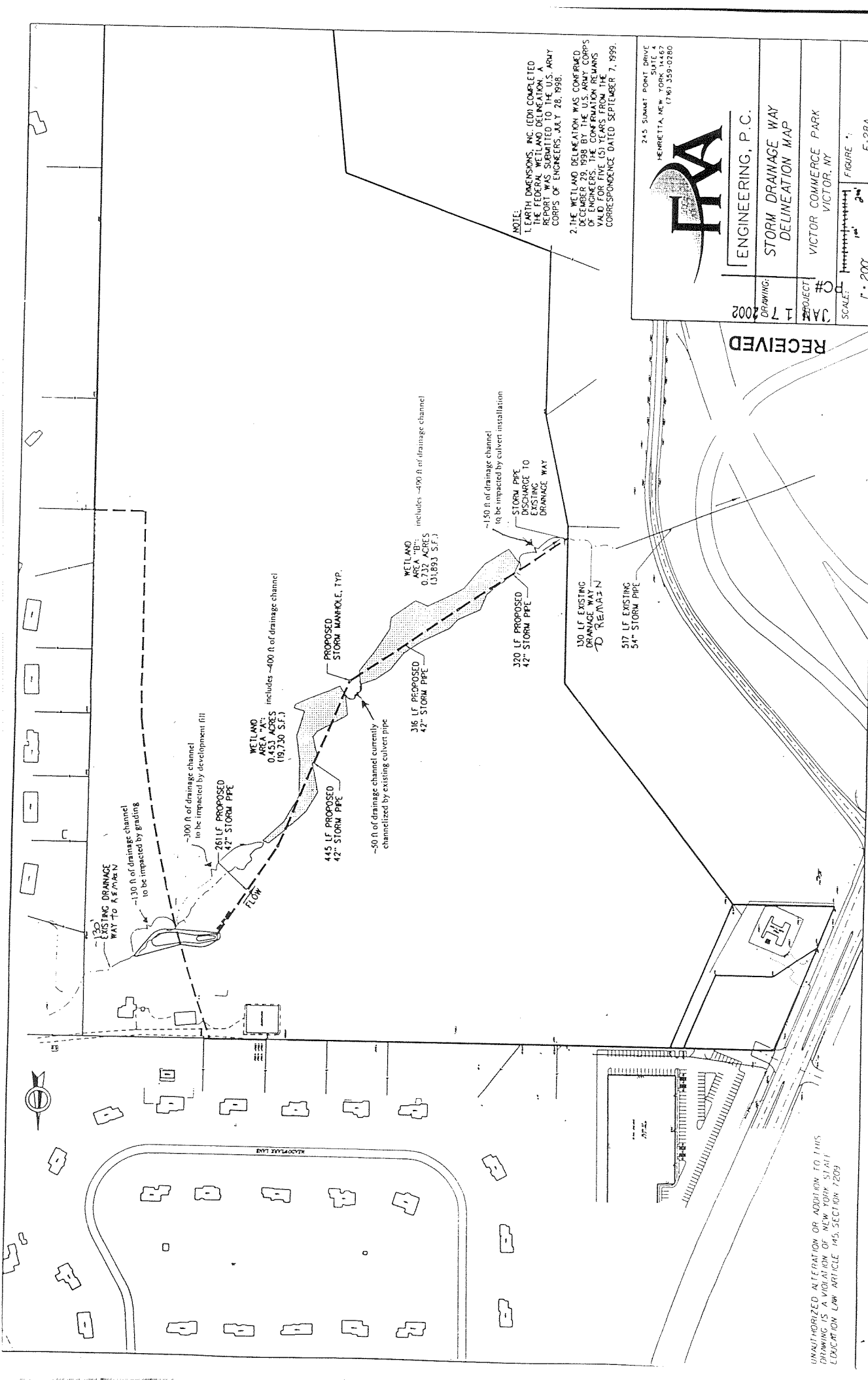
VICTOR COMMERCE
VICTOR, NY

SCALE:

1"=300'

FIGURE

C



Total Federal wetlands on site = 1.19 acres

Total length of stream channel to be impacted (includes portion through wetlands) = 1520 ft

NOTE:
1. EARTH DIMENSIONS, INC. (EDI) COMPLETED THE FEDERAL WETLAND DELINEATION, A REPORT WAS SUBMITTED TO THE U.S. ARMY CORPS OF ENGINEERS, JULY 28, 1998.
2. THE WETLAND DELINEATION WAS CONFIRMED BY THE U.S. ARMY CORPS OF ENGINEERS, THE CONFIRMATION REMAINS VALID FOR FIVE (5) YEARS FROM THE CORRESPONDENCE DATED SEPTEMBER 7, 1999.

245 SUMMIT POINT DRIVE
SUITE 4
HENRIETTA, NEW YORK 14456
(716) 359-0280

EDA

ENGINEERING, P.C.

DRAWING: STORM DRAINAGE WAY DELINEATION MAP

DATE: 1/7/2002

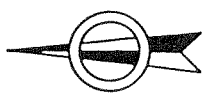
PROJECT: VICTOR COMMERCE PARK VICTOR, NY

SCALE: 1" = 200'

FIGURE: F-28A

BENDERSON DEVELOPMENT COMPANY, INCORPORATION
D/A Processing No. 1999-00482(2)
Ontario County, New York Quad: FAIRPORT
Sheet 4 of 6

UNAUTHORIZED ALTERATION OR ADDITION TO THIS DRAWING IS A VIOLATION OF NEW YORK STATE EDUCATION LAW ARTICLE 145, SECTION 7203



1340 LF STM.
CULVERT TO
DIVERT STREAM

②
PROPOSED RETAIL
APPROX. 85,980 SQ. FT.
F.F.E. 681.0

①
PROPOSED
WAL-MART SUPERCENTER
C-192-SCR-OR
KICKER ENTRY, CROWN ROOF, TLE (NOTED)
TOTAL GROSS AREA - 204,167 S.F.
F.F.E. - 686.0

⑥
PROPOSED RESTAURANT
11,200 S.F.
F.F.E. 679.0

④
PROPOSED RETAIL
APPROX. 80,400 S.F.
F.F.E. 684.0

⑤
PROPOSED RESTAURANT
11,700 S.F.
F.F.E. 682.0

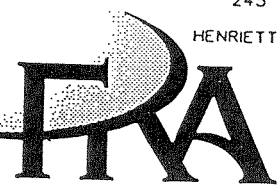
GARDEN CENTER
4,000 S.F.

8-BAY
TLE
4,000 S.F.

BENDERSON DEVELOPMENT COMPANY,
INCORPORATION
D/A Processing No. 1999-00482(2)
Ontario County, New York Quad: FAIRPORT
Sheet 5 of 6

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EDUCATION LAW ARTICLE 145, SECTION 7209

245 SUMMIT POINT DRIVE
SUITE 4
HENRIETTA, NEW YORK 14467
(716) 359-0280



ENGINEERING, P.C.

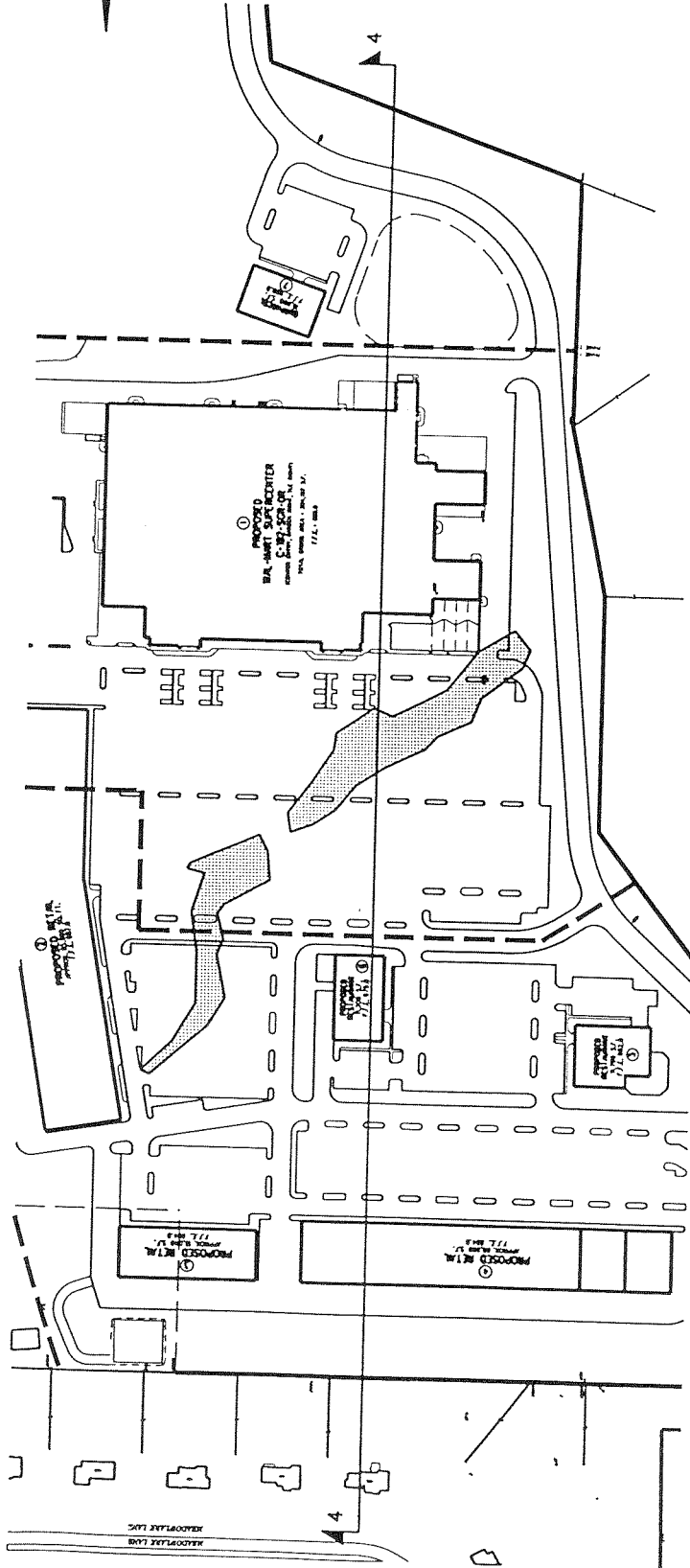
DRAWING: PARTIAL UTILITY PLAN

PROJECT: VICTOR COMMERCE PARK
VICTOR, NY

SCALE:
1" = 200'

FIGURE #: FIG. - 03

PAGE #: -



100 SETBACK/SETBACK AREA

EXISTING HOUSE

PROPOSED BLDG. NO. 1

PROPOSED BLDG. NO. 2

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PROPOSED BLDG. NO. 99

PROPOSED BLDG. NO. 100

NOTES:

1. TOPOGRAPHY OUTSIDE THE PROPERTY LINES OF THE SUBJECT SITE IS BASED ON AVAILABLE USGS MAPS.

245 SUMMIT POINT DRIVE
KEMHETIA, NEW YORK 14467
(716) 359-0280



ENGINEERING, P.C.

DRAWING: CROSS SECTION

PROJECT: VICTOR COMMERCE PARK
VICTOR, NY

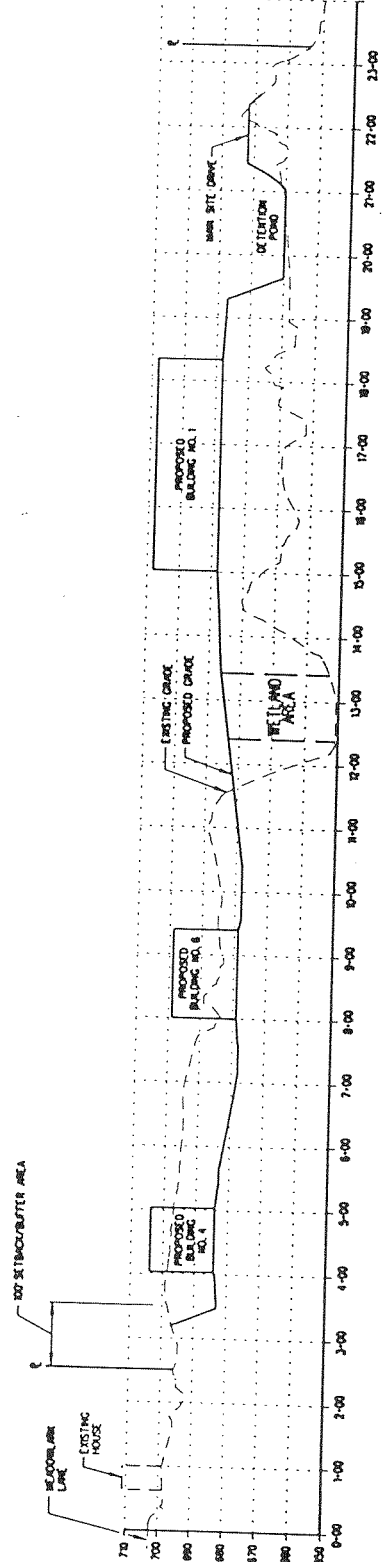
SCALE: 1" = 300'

FIGURE #1

PAGE #1

FIG. 06

SECTION 4
SCALE: HORIZ. 1" = 300'
VERT. 1" = 10'



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BENDERSON DEVELOPMENT COMPANY,
INCORPORATION
D/A Processing No. 1999-00482(2)
Ontario County, New York Quad: FAIRPORT
Sheet 6 of 6

